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**COPY MAILED**

AUG 15 2006

**OFFICE OF PETITIONS**

In re Application of  
William Maurice Jamieson  
Application No. 10/628,100  
Filed: July 28, 2003  
Title of Invention: **SNAP TRACK**  
**DECORATIVE MOLDINGS**

ON PETITION

This is a decision on the correspondence filed June 1, 2006 to withdraw the holding of abandonment, which is treated under 37 CFR 1.181.

The petition under 37 CFR 1.181 is **DISMISSED**.

This application became abandoned December 13, 2005 for failure to file a timely and proper response to the non-Final Office Action mailed September 12, 2005. Accordingly, a Notice of Abandonment was mailed April 28, 2006.

Petitioner contends that a response to the September 12, 2005 non-Final Office Action was timely filed on December 7, 2005 by facsimile transmission. Copies of the purported response have been provided as well as an Auto-Reply Facsimile Transmission received on December 7, 2005. However, while a copy of an acknowledgment by the U.S. Patent and Trademark Office of an Auto-Reply Facsimile Transmission received on December 7, 2005 has been provided, the purported response does not include a certificate of facsimile transmission pursuant to 37 CFR 1.8<sup>1</sup>.

The U.S. Patent and Trademark Office (Office) file is the official record of papers filed in this application. A review thereof does not reveal that a response was filed to the non-Final Office Action mailed September 12, 2005 and since the proof submitted does not substantiate a finding that the response was received the holding of abandonment will not be withdrawn and the notice of abandonment will not be vacated.

<sup>1</sup>37 CFR 1.8(b) states that in the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received by the U.S. Patent and Trademark Office, and the application is held to be abandoned or the proceeding dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

- (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
- (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate, and
- (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

Petitioner may wish to file a petition to revive under 37 CFR 1.137(a) or (b). Section 1.137(b) now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

- (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof;
- (2) the petition fee as set forth in 37 CFR 1.17(m) (\$675.00);
- (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and
- (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

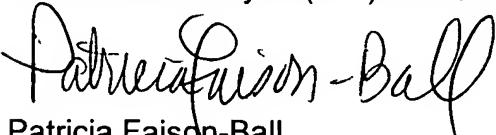
The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail:      Mail Stop Petition  
                  Commissioner for Patents  
                  P.O. Box 1450  
                  Alexandria, VA 22313-1450

By FAX:      (571) 273-8300

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.



Patricia Faison-Ball  
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Office of Petitions